An Apologetical Oration

ON AN

EXTRAORDINARY OCCASION.

By JOHN ASGILL, Esq;

Haud est nocens, quincunque non sponte est nocens. SENEC. TRAGÆD.

The SECOND EDITION.

To which is added,

A POSTSCRIPT.

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Apologetical Oration

PREFACE, INTRODUCTION, DEDICATION, (Gentle Reader) or, what you will.

TO

——— ———, Eſquire.

WORTHY SIR,

THERE are ſome of your benchers, for ſome I think are old enough to remember me, can tell you that when on earth, I was, which is no very uncommon character, a buſy body. You will not wonder, therefore, that having now diſcharged that incumbrance, I ſtill remain a buſy ſpirit.

As I had, during my peregrination in the fleſh, pretty much to do at Weſtminſter, in the

Hall ſometimes, and ſometimes in St. Stephen's Chapel, tho' at length the plenitude of their power concurring with the extravagancy of their malice, my enemies drove me from both, yet ſo it is, having always reliſhed that end of the town moſt, I continue to haunt it ſtill. The ſame ſcenes delight, the ſame amuſements pleaſe, and like an old ſportſman, tho' I cannot join in the chace, I have a wonderful joy in the cry of the hounds; love the buſtle in which I once mingled, and mingle yet as far as I can, and when hurry forſakes one place, tranſport myſelf to another where it reigns.

If the Britiſh Demoſthenes is to diſplay his eloquence, I make one of his audience, without aſking leave of the S------r, or of the H-----. Unappointed, unpenſioned, I attend the c--b---t, or rather did attend it, till your ſtateſmen were all of a mind. Many a time have I whipped into thoſe cabals, where intrigues have been formed that have given law both to the H----, and to the Cl---t. But theſe recreations are almoſt gone; oppoſition, like a cloud, has paſſed away, and, ſpirit as I am, I know not when it will return again.

In

In the ſpace of two and twenty years, for ſo long it is ſince I ſhook hands with mortality, never entertainment pleaſed me more than L. G. S.'s trial, where I took poſt in that elliptic arch that compoſes the front of your peruke, and much at my eaſe, contemplated our modern Areopagites. Now and then indeed I forſook it to look a little into the Culprit's brains, which to my ſurpriſe, I always found in perfect good order. Now and then too I whiſked through the heads of thoſe venerable ſages, whom MARS begot upon THEMIS, tho' I hear, for want of complying with certain forms preſcribed by the marriage act in Olympus, ſome ſhrewd ſcruples have been raiſed by you lawyers, as to their legitimacy. That men ſometimes ſurvive their paſſions you muſt know. But that their paſſions ſometimes outlive them is what you could not know till I told you. Yet ſo it is, I vouch it from my own knowledge. My inveterate affection for paradox ſurvives me, or rather ſurvives in me. That ſpirit of contradiction which while alive, fretted me to ſkin and bone, exiſts ſtill, tho' my ſkin and bones are long ago conſumed. I purſue my old game, and am everlaſtingly trying to make crooked things

ſtrait. Blaſted in Germany, puniſhed at St. J----s's, condemned at the H---- G-----, libelled every where, received no where; theſe are the circumſtances that recommend L. G. to me. Here is an harangue, I made, or at leaſt would have made, in his defence. My old friend Lucian having obtained Pluto's leave to ſend an expreſs to Lord L------n with a manuſcript, which I doubt he will print as his own, I prevailed on the meſſenger, a very good natur'd devil, to drop this at *******'s-Inn, in his way to Hill-Street.

I remain, dear Sir,

Your Sprite at command,

JOHN ASGILL.

AN APOLOGETICAL ORATION, &c.

AS the higheſt of the heavenly bodies, at leaſt thoſe within our ſyſtem, are moſt ſubject to be eclipſed; ſo men who by ſuperior merit riſe into the ſublimeſt ſpheres, are moſt expoſed to diſgrace. The vulgar were formerly extremely attentive to any defects in the celeſtial luminaries, and fancied ſtrange influences to be derived from thence upon earth. They have ſtill the ſame humour, with reſpect to the Great, and, upon the leaſt diminution of their ſplendor, but more eſpecially if total darkneſs enſues, ſet up an univerſal outery; ſo that the firſt trial to which a fallen great man is uſually brought, is before the mob, which however mortifying, would yet be more ſupportable, if

their

their verdict was uninfluenced, or if it had no effect upon other courts.

The next teſt, to which ſuch a perſon is liable, is the juridical enquiry, with which the leſs any man is acquainted, the more he is ſure to be hurt. In proportion as the country is civilized, there is of courſe a multiplicity of laws, and a multiplicity of courts, which, tho' all pretending to aim at the ſame thing, the diſquiſition of truth, take as many different ways, as the alchymiſts do to find gold, and very often with the like effect. They find ſomewhat, which they aſſert to be the thing they ſought, and to their aſſertion, the world in general is obliged to ſubmit. The ambiguity attending ſuch proceſſes has ever been the object of complaint, and hitherto has never met with a ſuitable remedy. The heaping up forms upon forms, till ſubſtance ſhrinks under them, throws ſuch an obſcurity on facts, that except thoſe who have or pretend to have the knack of applying the legal glaſs exactly, the object is ſeen very obſcurely, which is the reaſon that tho' the trial concludes ever in due from, and either

acquits

acquits or condemns, yet all men are not concluded by it.

This is ſo true, that there is a third tribunal, which the learned and wiſe have ſtiled the Impartial Public, to which appeals have been frequently made by the parties themſelves; as often on their being hurried away by other people for them, notwithſtanding the peremptory deciſions of every judicature. This happened in reſpect of Sir Thomas More, who aſſiſted the frighted Chancellor, and the cautious Lord Chief Juſtice, in the manner of pronouncing his own ſentence. This was the fate of Sir Walter Raleigh, whom the great Bull-dog of the law baited into the toils, in which many years after, a parcel of yelping curs worried him to death. This fell out to that glorious Whig Martyr, Algernon Sydney, for writing that claſſical treatiſe of government, ſince eſteemed by the lovers of liberty, as a political bible, ſanctified by his blood. For my own part, I reverence the law, and every form of law, much more every ſentence of law, and therefore I declare to you, that I conceived this defence, tho' for want of organs, it

was

was not in my power to make it, while the matter was yet in litigation, while a man, and much more a ſpirit, was in full poſſeſſion of his freedom, and had an indiſputable right to purſue his own cogitations, before the voice of the tremendous oracle was heard, which muſt, as it ought (I mean for the preſent) ſtrike all private opinions dumb.

Thus then, extricating the caſe from all the webs and cobwebs of uncontroverted commiſſions, long pieces of unintereſting matter, ſhort queſtions, perplexed anſwers, endleſs croſs examinations, and all the other trappings of military juriſprudence, I ſhould have endeavoured, by letting in the light of common ſenſe, to have defended the diſmiſſed General, had he been my client, and could the priſoner, by the rules of martial equity, been indulged with that aſſiſtance, which he will always want, who comes into a court as a party, to abide a ſentence; and not as a practitioner to get by the litigation, let right be, or be ſaid to be, where it will.

Firſt,

First then, let us attempt to procure ſome notion of the charge.

It is a maxim in military affairs not to be controverted, that every thing depends upon obedience. The breach of this is therefore conſidered as the greateſt crime, and as the greateſt crime, deſerves the higheſt puniſhment. But what conſtitutes the crime of diſobedience? Contumacy. Not to perform may be a fault, but the act, which military law regards, is the refuſing to obey. This implies orders given, received, and rejected. As the offence is very heinous, the evidence ought to be very clear. Preſumptions may poſſibly excuſe cenſure. Proofs only can warrant condemnation.

To illuſtrate this by an example.

The gallant admiral Benbow was ſacrificed by the diſobedience of his captains, for which they were tried, condemned, and deſervedly ſuffered their ſentence: But what was the proof againſt them? A clear poſitive agreement not

to ſupport their admiral, which they made good by their behaviour in the time of action. One of the captains who ſigned it, but who upon recollection fought, was not called to any account.

Now proceed we to the facts.

The firſt charge againſt L. G. S. is negligence. Orders were given the evening preceding the day on which the battle happened, that the horſes ſhould be ſaddled at one in the morning, but the tents were not to be ſtruck, or the troops under arms 'till farther orders. It was ſaid that notwithſtanding theſe precautions, the horſe were ſlow, and that L. G. came late to the field. This ſhews how early ſuſpicions of his conduct were entertained, and if thoſe ſuſpicions had been juſt, they would have created doubts with ſome foundation, as to the motives of his ſucceeding behaviour.

But how came out the evidence?

That he never received the orders. That they were nevertheleſs obeyed by thoſe who did re-

ceive them. That his lordſhip, upon the firſt notice that the troops were forming, prepared to put himſelf at their head. That he was in the field before any general officer of his diviſion. That he was in ſuch haſte to be there, that he went without ſo much as an aid de camp.

One cannot expect ſtronger proofs of a diſpoſition to obedience, than his doing this without orders. Accordingly all theſe preliminary points were given up. But when? ----- Here at his trial. Till then it appears they had been believed, otherwiſe they would not have been mentioned. They are given up, becauſe it now appears in proof, they were not true.

This looks like ſtumbling at the threſhold.

The cavalry when formed, were led by captain Malhorti, and poſted by him near the village of Hartum, there to remain and to expect further orders. There was then that village and incloſures upon the right, a long wood on the left, and the country open in

front, with a windmill before them; and the conducting them hither was evidently all that officer had in view. It does not appear there was, thus far, any delay. On the contrary, the briſkneſs with which the column of cavalry moved, occaſioned ſome degree of hurry and confuſion, in the rear.

L. G. S. had time enough to conſider this poſition; he was himſelf acquainted with the ground, underſtood from the guides he was to advance by the windmill, and under this perſuaſion, ſent an officer to reconnoitre the operations at Walen, where there was then ſome firing, that village being an object in reſpect to the cavalry, as it would have been upon their flank in advancing forwards, which L. G. believed muſt be the next ſtep upon his receiving, what he ſtood expecting-----orders.

It was here that captain Wetzenrode, a Heſſian Officer of infantry, and aid de camp to his ſerene highneſs, at length brought him orders, viz. to form the cavalry in one line, making a third to ſuſtain the infantry, and to advance.

advance. That gentleman ſays, he added, to the left, and pointed to the wood with his ſword. L. G. affirms that he did not hear that explanation, or ſee that motion. Several officers that were about him aſſert the ſame thing. But one officer, upon oath, ſupports the evidence of captain Wetzenrode.

In conſequence of theſe orders, L. G. ſent one aid de camp to remove the regiment of Saxe Gotha, which was in his front, another to learn where the infantry were, and a third to reconnoitre the enemy. Theſe he apprehended preparatives neceſſary to the execution of that order, which he never diſputed, for the execution of which he alone was to be reſponſible, and therefore he was willing, no wonder, nay no crime ſurely,-----to execute it properly.

With the aid de camp who was ſent to find the infantry, came colonel Ligonier, who brought his ſerene highneſs's orders to advance the cavalry immediately. L. G. S. made no anſwer to this, but inſtantly drawing his ſword, gave orders to march. All

this

this time the point he had in view, was moving directly forward by the windmill; and as this was the plaineſt, openeſt, and ſhorteſt way, it is ſurely no juſt concluſion, that it was a mark of diſobedience, he deſigned to take it. Colonel Ligonier ſays, that he added, the march was to be by the left. L. G. agrees it might be ſo, but ſays, that the drums beating at the time, he did not hear it.

After the troops were actually in march, in conſequence of Ligonier's order, colonel Fitzroy arriv'd from his ſerene highneſs, with orders for the Britiſh cavalry only to advance, and that by the left.

This ſurprized L. G., and as he ſaw colonel Fitzroy, by galloping hard was out of breath, he deſired him to recollect himſelf, and repeat his orders, which he did. Whence aroſe L. G's ſurprize? In the firſt place, if the cavalry was to ſupport the infantry in a third line, it ſeemed that the whole line was requiſite. This was one, and no light cauſe of ſurprize. But there was yet a ſtronger. The Britiſh cavalry were

were half a mile more to the right than that part of the line which was to remain behind. Both theſe aid de camps, ſeem'd to have left his ſerene highneſs at the ſame time. Each inſiſted his order was to be complied with. His ſerene highneſs was but at a ſmall diſtance; L. G. concluded it beſt, to go and receive his own orders. Can this be thought diſobedience, or any indication of a ſpirit of diſobedience? Both, though they both inſiſted on it, could not be obeyed; and which was to be obeyed, continued the queſtion.

In advancing towards his ſerene highneſs, L. G. ſaw that the country opened ſooner to the left, beyond the wood, than he expected. His aid de camp, captain Smith, from the converſation between them, thought colonel Fitzroy's orders were to be obeyed. L. G. combining theſe ideas, ſent back that gentleman, with orders for the Britiſh cavalry to move by the left.

Are theſe characteriſtics of negligence, perplexity, or diſobedience?

Upon

Upon L. G's coming up, his ſerene highneſs received him with his uſual politeneſs; he firſt ſtated the orders, next mentioned the difficulty he was under, and laſtly pointed to him the head of the column of the ſecond line, which was then in view coming out of the wood. His ſerene highneſs expreſſed no ſurprize, that L. G. did not underſtand thoſe orders; but gave him a freſh order, which was, to form on the heath, and ſuſtain the infantry.

Was not this an approbation of that conduct for which he is now arraigned?

That he might carry his ſerene highneſs's commands into execution, and bring up the whole cavalry of the right wing in a line, L. G. found it neceſſary to halt the troops on the left, 'till the right came into the line, and afterwards ſent to them to march ſlower, that two regiments which had been thrown out, might have an opportunity of coming again into their proper ſtations.

At theſe manœuvres of L. G. the marquis of Granby teſtified ſome diſlike, which, indeed, was no wonder, for the marquiſs was marching at a very briſk rate, in conſequence of an order, which himſelf had received from his ſerene highneſs; and as he did not know, that this halt, and the frequent dreſſing of the line, were effects of orders, which L. G. had from his ſerene highneſs, it might well appear ſtrange to him; but could be no crime in L. G. unleſs obedience in him could be a crime, as well as diſobedience.

From theſe facts, one ſurely ſees nothing worthy either of death, or of bonds.

We muſt look therefore into L. G's intentions. A very difficult thing indeed! A thing known with certainty only to himſelf, and to his Maker.

His own evidence will not be taken; we cannot call in revelation. What then is to be done?

We muſt hear what his accuſers ſay, and conſider the proofs they bring.

He did not obey (ſo they aſſert) captain Wetzenrode's order, either through a ſpirit of diſobedience, through confuſion of mind, or through ſomething or other, no matter what, ſo it afford but ground for puniſhment. Well then, let us ſee what was the overt act, which aſcertains the exiſtence of this unknown evil principle.

This order, at L. G's requeſt, captain Wetzenrode repeated twice. It would be a new as well as ſtrange proof of diſobedience, to alledge that a man took pains to underſtand his orders. They conſiſted, as L. G. and all about him underſtood, of three points. 1. To form the two lines of cavalry into one. 2. To advance with the line ſo formed. 3. To take poſt behind, in order to ſuſtain the infantry.

The regiment of Saxe Gotha was in the front of the line. This was to be removed. L. G. ſent an aid de camp with orders for that purpoſe. He ſent another to reconnoitre the enemy, and a third to find out the infantry. He had no difficulty about going, but conceived it

right to know firſt, how he was to go, and next where he was to ſtop. This might be cautious, but why was it culpable?

Some of his officers thought he might have advanced without this caution. But if ſucceeding events had ſhewn any want of caution, that muſt have been imputed to him, and not to them. If in theſe things he had not a ſuperior judgment, how came he to be commander in chief of the Britiſh forces? If he had, whence ariſes the rectitude of condemning him upon their opinion? Would he not have been more juſtly liable to cenſure, if he had acted againſt his own opinion, and without taking the precautions, that to him appeared neceſſary? If any accident had happened from his not taking theſe precautions, the neceſſity of them would have been ſufficiently obvious to others, and haſte had been THEN, as criminal as delay is NOW.

But captain Wetzenrode infiſts, that he directed the motion by the wood, and to the left. This was not heard by L. G. or

by his aids de camp, yet it was heard by another witneſs.

There would be undoubtedly ſome hardſhip in puniſhing a man for not obeying an order he did not hear. But if he had heard, it would have been his duty to have examined that wood, before he paſſed it. Beſides, the artillery were at that inſtant going through the wood, which would have impeded his paſſage, or he muſt have retarded theirs.

Was it then his intention, not to obey this order? No; his lordſhip has told us, what were his intentions. They were to paſs by the windmill, and to form as ſoon as the ground would permit. His motives were, That this was more open, and a ſhorter paſſage. Unuſual marks theſe, either of delay or of diſobedience! To common obſervers they appear juſt the contrary. But why then did he not execute this order? Captain Lloyd, who was ſent to find the infantry, having advanced only three hundred yards, returned with captain Ligonier, who brought another order,

order. This ſhews that if L. G's caution was neceſſary, there was not a ſingle moment loſt.

This is preciſely the time L. G. is ſaid to have been in a ſtrange condition. The fact is denied by thoſe who were about him, and who were conſequently the beſt judges.

What condition could he be in? Was he in confuſion? That cannot be. He gave three diſtinct orders clearly, and thoſe three orders, had but one object. It was to prevent confuſion.

Was he in fear? If that had been the caſe, he would have ſcarce paſſed the French batteries, to go to his ſerene highneſs, which he knew muſt alſo put him under a neceſſity of repaſſing them as he returned.

Was he now taken with a fit of diſobedience? It may be ſo, but the ſymptoms were very ſingular. He was commanded to advance. He was told the reaſon, becauſe

the enemy were in diſorder, and his ſerene highneſs was deſirous to profit of that diſorder, by advancing the cavalry. What did L. G. in his confuſion? He drew his ſword, and ordered the troops to march. Now, in the name of wonder! what could the braveſt, or moſt ſteady man have done more?

The great loſs of time, more eſpecially at that critical conjuncture, is ſtrongly inſiſted on, as an inconteſtible proof, that ſome fault there muſt have been in L. G. though the motive to it could not be aſſigned. That L. G. was not diſpoſed to delay, appeared from his being in the field before any general officer of his diviſion, from the cavalry of the right wing being in motion as early as any troops in the field, and from a multitude of other circumſtances, previous to the arrival of captain Wetzenrode. The great ſpace of time loſt then, muſt be from his arrival to the arrival of captain Ligonier; that ſpace of time is indeed aſcertained, as far as can be aſcertained, to be eight minutes. But whatever it was, if L. G's

G's cautions were right, it could not be ſaid to be loſt by him, ſince captain Hugo had but that inſtant removed the Saxe Gotha regiment in front, when colonel Ligonier arrived, and upon pronouncing his order, the troops were put in motion, the line being actually in march, and advanced to form behind the infantry, which had been done without the loſs of a moment, if colonel Fitzroy had not delivered a contradictory order.

Contradictory it certainly was, if the whole and the half be different things. Contradictory it was in their own opinions, for each aid de camp inſiſted upon his order. How did L. G. teſtify his diſobedience? Gentlemen, ſaid he, agree between yourſelves, which is the order, I will execute either. When they could not agree, he went to the prince, without quitting ſight of his troops, and that no time might be loſt, ſent back captain Smith, to do all that could be done. Were all theſe teſtimonies of diſobedience?

It would have been his fault, if he had ſent aid de camps with contradictory orders. That

That he received them was his heavy misfortune! That he did not obey them was the conſequence of the misfortune! But by what rule of law or logic, is the inevitable conſequence of an unforeſeen and unavoidable misfortune, converted into a heinous, and even a capital crime?

After all, it is certain, that the cavalry of the right wing were not in action. L. G. S. commanded that cavalry, therefore he was to blame. He loſt that harveſt of lawrels which he might have reaped, which he was invited to reap, and which he would not reap.

Very, very ſtrong this, ſo ſtrong, that if it was but indifferently ſupported, if every word of it could not be refuted, the defending of L. G. would be a greater crime, than his own want of appetite to glory.

Other corps did not charge. Indeed only a very few did. Were thoſe other corps blameable, or might not the cavalry of the right wing be innocent as well as they? Let us hear the preliminary account of this battle, publiſhed at the Hague, where theſe facts

are

are avowed, and which is much more to the purpoſe, accounted for, not by L. G. but by his Serene Highneſs.

" La cavalerie de notre droite n'a point " agi, parcequ'elle étoit deſtinée à ſoute- " nir l'infanterie en troiſiéme ligne. L'infante- " rie du corps du general Wangenheim n'a " point non plus donne d'autant qu'elle etoit " placée, pour aſſûrer notre gauche, & ne " pas perdre l'avantage du poſte de Doden- " hauſen."

In Engliſh thus.

The cavalry of our right wing did not act, becauſe it was deſtined to ſuſtain the infantry in the third line. The infantry of the corps under general Wangenheim did not charge likewiſe, being placed there, to ſecure our left, and that the advantage of the poſt of Dodenhauſen might not be loſt.

This relation, publiſhed by authority, appeared in the Hague Gazette of the 13th of Auguſt, 1759. It aſſerts that the cavalry on the right wing, and the infantry on the left, did not act. It aſſigns the reaſon, becauſe they were not intended to act. How then comes the not acting of the cavalry on the right wing to be imputed as a crime to L. G. S? If it was ſo much as a fault, why was it not imputed then? If not imputed then, how came it to grow up into a crime ſince?

But L. G. S, was invited to reap the lawrels. By whom? By colonel Ligonier. Did he delay? No, he obeyed without making him repeat his order, or ſo much as giving him an anſwer. What was the new order? To march, inſtead of the whole line, with a part of the line, which L. G. did not comprehend; more eſpecially as that part was at a greater diſtance, than the part that was to be left behind. What were his Serene Highneſs's commands when this was repreſented to him? To form the whole line to ſuſtain the infantry, which was obeyed. His Serene High-

neſs adopted L.. G's idea. Could his having that idea then be a crime?

There was but one way in which it was poſſible the cavalry could have charged. That way was by marching directly over the open ground, by the windmill. This was L. G's intention, and if there be a colour of crime, it muſt lye in that very intention, and in his reluctance to march by the left, through the wood, which put it out of the power of the cavalry ever to act at all.

We have now impartially ſtated the facts. We have gone through the imputations. We have dwelt upon nothing that has not been proved: and what has been proved, and only what has been proved, one would think, ought to be believed.

It may be aſked, were there no miſtakes? Who will ſay that? In all affairs where men are to act, there will be miſtakes, and more miſtakes in proportion to the hurry they are in. As theſe miſtakes are inevitable, as they flow from the very nature of man, it ſhould

ſeem as natural to look upon them with candour, when they are not either groſs or wilful.

There might be, probably there were ſome miſtakes in the delivery of the orders, the evening before the battle. Theſe ought not to affect L. G. becauſe he obey'd the orders, though he did not receive them.

There might be ſome negligence, or ſome miſtake in reſpect to the orders for the Britiſh artillery. But to that we ſhall come by and by.

There ſeems to have been ſome miſtake or confuſion in the orders delivered by the aid de camps, yet this might be no fault of theirs.

There might be, poſſibly there was a miſtake in thoſe ſix glorious regiments of Britiſh infantry, the two regiments of Hanoverian guards, and the regiment of Hartenburg, who are reported to have advanced without orders, and who beat forty battalions, and ſixty

ſquadrons

ſquadrons out of the field. This plainly proves, what indeed was very well known before, that miſtakes may be favourable as well as fatal.

But the moſt obvious, the moſt apparent miſtake, was the peremptory determining the motion of the cavalry of the right wing, by the left, through the wood. The ſingle miſtake L. G. committed here, was his not falling into the miſtake.

The only poſſible means, by which the cavalry of the right wing could have engaged, could have fallen into the purſuit, or have added to the luſtre of the day, muſt have been from their marching by the windmill; and yet for this he has been blamed, as well as for not engaging.

This appears beyond all contradiction, for upon forming the cavalry into one line behind the infantry, after the paſſage through the wood, by the left, it appeared to be uſeleſs: And upon L. G's application to his Serene Highneſs, it was ordered to the edge of the moraſs,

raſs, where, had he been permitted, he might have come much ſooner, by taking the method he all along intended.

But wherever miſtakes were, or whatever miſtakes were, L. G. ought to be anſwerable for his own miſtakes only. Will it be thought reaſonable, conſidering the rank he bore, and the command he held, that upon his head, as upon that of a Scape-Goat, all the errors and miſtakes ſhould be laid, that were committed throughout the army?

But ſay his accuſers, If L. G. was not culpable, or not culpable in a very high degree, whence aroſe the diſſatisfaction, the anger, the reſentment of his Serene Highneſs againſt him?

Suppoſe no anſwer could be given to this, muſt we conclude L. G. guilty? Muſt his guilt or innocence depend on the ſenſe of any other perſon, independent of motives, and facts to ſupport theſe motives? But the caſe is far otherwiſe, and as in former caſes, ſo alſo in this,

this, when the clouds are removed, we ſhall ſee better, if not clearly.

His Serene Highneſs had an impreſſion that the orders he gave the evening before the battle, had been neglected; that the cavalry of the right wing had been ſlow in their motions; that the commander in chief of the Britiſh troops loitered, and came late to his poſt.

How theſe impreſſions came does not appear. That they were falſe and ill founded does appear, for they have been given up here, but they may be ſtill believed elſewhere, which never did, or can alter their nature.

Under this impreſſion his Serene Highneſs looked upon all things L. G. S. did; and thro' a medium thus diſcoloured, it is no wonder that he ſaw them otherwiſe than they really were.

But this is not all. As his Serene Highneſs had no diſtinct perception of things, ſo we have had another image obtruded upon us, than even that Prince, thro' ſuch a diſcoloured medium, diſcerned.

This

This ſhall be preſently made intelligible.

It has been commonly apprehended, his Serene Highneſs having ſent captain Wetzenrode with his orders, and underſtanding L. G. feigned not to comprehend them, he next employed colonel Ligonier, and afterwards colonel Fitzroy to quicken him; from whence one would be led to think, that the coming of theſe two laſt orders, aroſe from ſome report of captain Wetzenrode's.

But the truth is, that captain Wetzenrode, after a ſtay of a few minutes, returning to his Serene Highneſs, met, not colonel Ligonier, but colonel Fitzroy, and came back with him; ſo that his Serene Highneſs's impatience was not excited by any apprehenſions of L. G's refuſing to obey his orders, but from his own obſervation of events, which induced him to wiſh that his commands were ſpeedily obeyed.

But, ſay the ſame perſons, his Serene Highneſs expreſſed his ſurpriſe ſtrongly, not in words, but by actions, and by geſtures, at

L. G's

L. G's diſobedience or delay. This is very true, and his Serene Highneſs acted very juſtly. But let us ſee how it happened.

While L. G. S. was talking to captain Smith, his own aid de camp, in his way to receive his Serene Highneſs's orders, and then ſent him back to carry thoſe colonel Fitzroy had brought, at all events into execution: Colonel Fitzroy puſhed on, made his report to his Serene Highneſs, which was, that L. G. did not underſtand his orders, but was coming to have them explained. It was at this, his Serene Highneſs expreſſed his ſurprize!

But upon L. G's actually coming up, and explaining the doubt he was under, his Highneſs received him very politely, which was alſo very juſt and well founded. L. G. had ſaid to colonel Fitzroy, that he did not apprehend the Prince intended to break the line, tho' colonel Fitzroy's orders were expreſly to that purpoſe. Now what were his Serene Highneſs's own orders to L. G.? To advance with the cavalry, and to form a line behind the infantry.

His Serene Highneſs expreſſed alſo with ſome emotion, upon ſeeing the Britiſh cavalry come out of the wood, that he did not know what L. G. was doing. This ſhewed reſentment to L. G. But it was not founded in L. G's conduct. The horſe he ſaw was the Marquis of Granby's line, advanced thither in virtue of captain Wetzenrode's explanation of the order he brought from his Serene Highneſs, and he was probably diſpleaſed to ſee them where they muſt be uſeleſs, and where L. G. would never have placed them.

Upon the whole, it will appear evident, from a ſtrict obſervation, that his Serene Highneſs's idea of the poſt, that ſhould have been occupied by the cavalry of the right wing, was preciſely the idea which L. G. had, and would have executed at once, by taking the ſhorteſt and the propereſt method, if he had been permitted.

If truth be the object of the enquiry, this ſeems to be the truth. Let it make for whom it will, or againſt whom it will. His Serene Highneſs and L. G. agreed in their idea: L. G.

was

was not allowed to execute it. This drew upon him his Serene Highneſs's reſentment: This was the ground of what was inſerted in the order of thanks; if his Highneſs had enquired in time, and heard all parties, probably it would not have been inſerted, and then L. G. S. had not been ruined.

We have now gone through the matters of fact ſtated clearly, plainly, and from evidence. We have examined the imputations on this unfortunate officer's conduct, and ſifted their grounds: we have remarked that there were many miſtakes, and of conſequence much room for indulgence; we have thrown ſome light on the inſtances of his Serene Highneſs's being diſpleaſed with L. G. By ranging things in this manner, under different heads, they are more clearly ſeen, and what there is of truth under each, is with greater certainty diſcerned.

But there is ſtill one point more to be conſidered.

We have mentioned, amongſt other miſtakes, that there were no orders given for the Britiſh

artillery. Thoſe who had the direction of that brigade were as alert, and as deſirous of doing ſervice as people could be. But they had no inſtructions. They knew not where they might be of ſervice.

An officer was ſent to obtain theſe neceſſary lights; this officer met with L. G. S. who immediately ſent him to the brigade of artillery, with orders for them to advance into the front, and directed them how and where, to find an object.

This artillery had afterwards the honour to receive his Serene Highneſs's commands, were extremely uſeful in annoying the enemy, in ſilencing a troubleſome and dangerous battery, and in diſturbing and diſtreſſing the enemy in their retreat; for which ſervices they were very juſtly diſtinguiſhed in his Serene Highneſs's order of thanks.

This circumſtance ſhews, that his lordſhip was very early in the field, that he was active, and that his activity was of great uſe in this particular. At the ſame time it ſhews his zeal, which

which is utterly inconſiſtent with a ſpirit of diſobedience; and it ſhews likewiſe his diſcernment, which is incompatible with perplexity or confuſion. His rectifying a miſtake of ſuch conſequence, his directing this brigade of artillery to the ſpot where they were afterwards ſo uſeful, was ſurely a degree of merit, that might have atoned for any ſmall miſtake of his own. His merit procured theſe gentlemen thanks, but did not avert that cenſure which fell upon him, tho' we hope it is now ſhewn------very undeſervedly.

To conclude with a very few general remarks.

The ſpirit of our criminal law requires for its foundation, a fact, and not a ſuppoſition. The charge againſt L. G. S. turns entirely upon the manœuvres of cavalry; if theſe were requiſite in themſelves, and properly performed, his conduct is commendable; if not, it is blameable. But this is entirely matter of opinion, of which thoſe only can judge, who are at leaſt as well ſkilled in the motions of cavalry as his Lordſhip. This accounts for ſome officers being of one opinion, ſome of another,

which

which places the whole, conſidered as a fact, in a point of great incertainty. There is however one circumſtance in it extremely ſingular. The perſon enabled by the royal commiſſion to judge of the behaviour of all, is himſelf brought into judgment, from his conduct being cenſured by a few.

This circumſtance, we ſaid, was ſingular; but its conſequences were terrible; ſince tho' in many reſpects he might have acted differently, he could never act ſafely. If he had marched with impetuoſity, the charge might have ſubſiſted, but it muſt have been varied. The diſorder of the line, the blowing the horſes, the throwing whole regiments out of their proper places, would be as convenient colours and characteriſtics of diſobedience as any that are now produced; for being as much matter of opinion, he would have been then juſt as liable, as he is, to clamour, to cenſure, to condemnation. Hurry might be referred to confuſion of mind, and that confuſion of mind aſcribed to fear.

In the nature of things, contradictions cannot be true: and therefore they ought not to be

be believed. If the cavalry of the right wing was intended to ſupport the foot, their inactivity was then deſigned, and their commander muſt be innocent. If the cavalry of this wing was relied upon for the purſuit, then their motions were improperly directed; and their commander, who would have put it in their power to purſue, if it had been practicable, merited thanks inſtead of cenſure. But to be active and inactive at the very ſame time, was impoſſible. In the authentic account of the victory at Minden, the inactivity of the right wing is avowed, and aſſerted to have ariſen from military prudence. In the order of thanks, after the victory at Minden, what is ſaid as to the making the deciſion of the day more compleat, and more brilliant, implies that action was intended, if that intention had not been fruſtrated.------Theſe are direct contradictions.------Yet they ſtand upon the very ſame authority.

In reference to the witneſſes produced by L. G. S. they were preciſely ſuch, as muſt know the truth or falſhood of the facts to which they were to ſpeak; they were then proper witneſſes. They could have no hopes

of

of favour or preferment, by ſacrificing truth, to the ſupport of their diſgraced commander; they were conſequently unbiaſſed witneſſes. Their teſtimonies correſpond with events, and anſwer very exactly to thoſe points, which were never controverted; they were conſiſtent, and therefore credible witneſſes. To bear hard, or caſt reflection on a priſoner's evidence, is to diminiſh the power of juſtice, by leſſening the ſecurity of innocence, and placing accuſation much nearer conviction than in equity it ought to be.

Laſtly, with regard to diſcipline. This proceeding has a tendency not to ſtrengthen, but to ſubvert it. If the commander in chief is liable for acting contrary to the opinion of ſome of his inferior officers, where is command? If not complying with orders plainly contradictory is diſobedience, where is ſecurity? Diſcipline, more eſpecially military diſcipline, may be compared to a bow; if it is bent ſlackly, it is weak; but if it is ſtrained, it breaks. In the former caſe it may be reſtored; in the latter, it becomes uſeleſs for ever.

F I N I S.

POSTSCRIPT, &c.

WHILE cloathed in clay, and a paſſenger through your wicked world, whenever I happened to be a little precipitate, in committing my labours to the preſs before they had been fully conſidered, I deviſed a very ſingular method, as indeed moſt of my methods were ſingular, to ſupply that defect, and ſet myſelf right again with the public.

I had often ſeen boys ſend meſſengers after their kites. This, I confeſs, gave me a hint; and

therefore, tho' I could not recal the publication, it was ſtill in my power to detach a poſtſcript, that might be ſubjoined to it in the next edition.

Old habits are inveterate, and it is better to confeſs and excuſe our faults, than attempt, like a Hicks-hall ſollicitor, to traverſe and avoid them.

I have a word or two more to ſay, and I don't doubt that in due time at leaſt, I ſhall be heard. Clamour is indeed very loud, but clamour, heaven be praiſed, does not always laſt.

Some who think I have cleared my client pretty well of Diſobedience, are pleaſed to ſuggeſt, that I am not quite ſo explicite as to his Courage.

Conſider a little how the caſe ſtands. The directions that were iſſued before the battle, the preciſe order about ſaddling the horſes, and various other circumſtances previous to the action, were juridically mentioned, which, in reſpect to the diſgraced Commander, inſinuated a kind of negligence at leaſt. But every thing

of

of this ſtamp being abſolutely ſet aſide by indiſputable as well as poſitive proofs, it was then converted into a mere matter of form, an introduction, or a prelude to the charge; which as it appeared good for nothing, was allowed, a wonderful condeſcention truly! to paſs for nothing.

The charge is acknowledged on all hands, to be ſimply and ſingly for diſobedience of orders, from whatever motive that diſobedience aroſe. The want of courage was incidentally, and dexterouſly thrown in, to make weight. It was no part of the charge. It only came in aid of the charge. And why pray? Becauſe it was more odious than the charge; and coming in as it were by the bye, was to operate againſt this unfortunate officer without the formality of proof!

Want of courage, is a mob-accuſation, and an accuſation fit only for the mob. If there be ever any foundation for ſuch a charge, it muſt be notorious and ſelf-evident. But if there be none, it may be imputed, as indeed it has been imputed, againſt the braveſt and the greateſt men, when in diſgrace. That is the pro-

per ſeaſon of imputations, which, like vermin in a north-eaſt wind, blaſt the growth of years, and deſtroy the pride of gardens, in a ſingle night, ſometimes in a ſingle moment.

In the preſent caſe, the refuting the real charge of diſobedience, moſt effectually refuted this ſuperinduced charge; for in refuting that, it was ſhewn, that this diſgraced officer had his wits always about him; that he gave his orders diſtinctly, coolly and properly. Things utterly incompatible with thoughts diſturbed by fear!

Amongſt theſe orders, was that remarkable one, for advancing the Britiſh artillery, without which it may be very truly ſaid, the victory had been leſs brilliant, and leſs compleat.

His birth, his ſervice, his blood ſpilt in the ſervice, his riſe in the Britiſh army, and above all, the command he then held, were teſtimonies in his favour, that rendered ſuch a ſuggeſtion equally injurious and ridiculous, in the ſentiment of every man capable of forming juſt ideas of Britiſh diſcipline, and well acquainted with the character of Britiſh officers. With them,

them, who would certainly look upon this, not only as a perſonal inſult, but as a national indignity, we might ſurely reſt it here.

But there are other, and thoſe too concluſive proofs, level to every man's underſtanding, which will carry the matter much farther, and ſhew ſuch a ſteady and conſiſtent reſolution in him who is thus cruelly upbraided, as has not been frequently ſeen.

If this diſcarded officer had really had any conſtitutional defect of this kind, his fall might have been more light. He need only have kiſſed the rod and ſubmitted. He might then have kept his rank, and have ſuffered only in his honour.

But to that he would not ſubmit. His ſpirit in reſenting what he thought an unjuſt reproach, drew upon him ſwift, ſudden, and total deſtruction. Would a man without courage, have braved this? Would a man who had loſt his honour through fear, have ſacrificed every thing to retrieve it? Will any man of common ſenſe, aſſert this to be ſo much as probable?

bable? Or rather, will he ſeriouſly affirm, he conceives it poſſible?

When he had ſuſtained all that man could ſuſtain, and what few men could have ſuſtained, without a total loſs of compoſure, and an abſolute dejection of ſpirit, did any thing of this kind appear? Did he take ſhame to himſelf, and ſeek ſhelter in mankind's compaſſion? Did he dread an examination, or avoid a trial?

No, quite the contrary! After ſuffering a puniſhment he could not avoid, he ſought a trial, to which, if he had not ſought it, he had never been called. The proofs of his timidity, like thoſe of his diſobedience, were preciſely ſuch, as to an unbiaſſed inquirer into his caſe, would have been thought the plaineſt juſtifications of his innocence.

His employments were gone. His reputation tore to pieces. He was indeed ſuffered to live. But rather than live in ignominy, he chuſed to expoſe all he had left,-------- his life.

He had often expoſed it before as a ſoldier, upon the ſame terms with other men. He ex-

poſed it now under circumſtances harder, than perhaps ever happened to any other man. After expoſing it both ways, is he ſtill ſuſpected? Alas! facts may be refuted. Suſpicions, with ſome men, are not to be removed by reaſon, or ſilenced by evidence. However, for the ſake of the candid and the juſt, let us try.

With what view did he laſt expoſe it? That he might entitle himſelf to the juſtice of his country, and that whatever his guilt was, that guilt might be judicially enquired into, and appear.

In running this hazard, a hazard, to ſay the leaſt of it, not inferior to any, to which he had been expoſed in the field, he ſupported the character of a Britiſh officer, and ſecured to every officer, if ſuch a caſe ſhould ever happen again, a right of having his cauſe examined, and of making his country acquainted, not with ſuſpicions, and ſurmiſes, which every man's enemies may invent, and which a credulous world will be always apt to believe; but with proofs, of which the guilty only are afraid.

The

The utmoſt elevation of courage is ſtiled fortitude, which conſiſts in a ſteadineſs of mind; that is, to define it more preciſely, a mind capable of preſerving the free uſe of its faculties, on all occaſions, and in every ſituation, without being diſtracted by unpropitious events, diſturbed by unforeſeen accidents, diſconcerted by dangers of any kind, or amazed by terrors in any ſhape.

This is that true dignity of ſoul, which at once impowers as well as impels a man, to diſtinguiſh himſelf wherever he is placed, and enables him to appear with equal luſtre, in very different ſpheres, and with qualities very different in themſelves, and which remain not only undiſplayed, but unperceived, till called out by the proper occaſion.

Such is the temper, ſuch are the talents, that conſtitute a man of ſuperior abilities; and as they are the gifts of nature, though they may be heightened and improved by education, and ſtill farther by application and uſe; ſo they have a ſolidity, as well as a ſplendor, that hinder them from being ever miſunderſtood; imitated they may be, but not counterfeited.

The

The baſis of ſuch a character, is a zeal for truth, and this was apparently the motive, and the only motive, of this Noble Perſon's conduct. He knew himſelf to be a man; he knew himſelf to be fallible; he knew that he might be in an error in opinion, or practice; but at the ſame time he felt in himſelf the powers of judging and of recollection. He firſt exerted theſe, and being convinced in his own ſentiment, that he was by no means criminal, in the degree he had been repreſented and believed to be by his Sovereign, and his country ------ He did ----- what?

He took a determined reſolution to juſtify his character againſt clamour, prejudice and prepoſſeſſion; and this at the imminent and evident peril of his life.

This generous reſolution once taken, he perſiſted in it with a ſpirit, which all the world muſt well remember, was thought obſtinate. To him it appeared, only rectitude of heart. He purſued it, therefore, with ſuch firmneſs, and conducted his applications with ſuch ſkill and aſſiduity, that at length

he prevailed. Prevailed over all obſtacles, and deſpiſing thoſe formalities, that might have procured him ſafety, the ſingle wiſh that conſcious guilt could have formed; he ſtood forth a willing priſoner, and came, which was the ſurprize of this age, and will be the wonder much more of the next, to that trial, which he had ſo ardently ſought, not with equanimity only, but with alacrity.

He knew better than any man what could be proved; and one may be allowed to ſay, becauſe every page in the trial ſhews it, he declined nothing, that could contribute to bring truth to light, let that truth militate for, or againſt him.

But to what end, this long, this hard, this painful ſtruggle?

He knew, as I have ſaid, as well before, as the public know ſince, all that could be proved, and to what it would amount. He was as conſcious of his guilt, or of his innocence, as he is now. Had he conceived the firſt to have been his caſe, he might have denied, at leaſt he might have

diſſembled and obſcured his crimes. Every hour he could have gained, would have leſſened clamour, calmed animoſity, and weakened evidence. If innocent, the ſtricter the enquiry, the ſpeedier the examination, the clearer it would appear. Is there any longer a myſtery, in his being anxious for his trial? Could that anxiety proceed from more than one cauſe? Let any ſenſible man aſk the queſtion of his own heart?

Did ever the ſtouteſt criminal, did ever a ſpirit depreſſed, tho' innocent, and ſuch there have been, under ſuch circumſtances, perſiſt in demanding, and exert every means to procure a trial? Doubt, if you will, of his cauſe. Doubt, if you can, of his courage. Loſt as he was, and undone, he had, tho' very little to hope, yet not very little to fear. Weigh this well, candid reader; deliberate maturely, and then let me aſk again,

Why this long, this tireſome ſtruggle?

To convince the Britiſh nation, that a Britiſh ſubject in every ſtation, had reſources in

the juſtice of his country, and provided that his own guilt did not confound, or his own weakneſs did not miſlead him, might ſupport his cauſe againſt every ſpecies of power.

To let foreign officers ſee, with whom he had lived, and ſtill lives in confidence and eſteem, what were the glorious prerogatives of this happy country, where men have the nobleſt motives to act right, becauſe they have always open paths, and from which they cannot be precluded, to ſhew that they have acted right.

To convince the world in general, that in a free country, truth is always to be come at, by him who values truth as he ought; and that no man's character can be ſacrificed, if he has not ſacrificed it himſelf, by his conduct, or wants the capacity of indicating that innocence of which he is conſcious.

Theſe ſurely were great and generous motives, and his behaviour upon his trial was ſuch, as ſupported the evidence given, of his be-

behaviour in the day of battle. He ſhewed there, that the fear of death could not diſmay, or diſtract him.

Whatever it has been to himſelf, the end he propoſed has been fully anſwered with reſpect to the public. They have had as to his conduct, all the proofs they could deſire, exhibited before their tribunal. They are poſſeſſed, not of facts barely, but of colours, and of reaſonings. They may decide as they pleaſe. But they muſt always remember, that their power of deciſion ſprung from HIM.

The public now knows, what to think of the glorious victory of Minden. They ſee, that it was due to the ſole exertion of Britiſh and Hanoverian valour. A degree of valour, that wants a parallel in ancient hiſtory, and which will be held ſcarce credible, in ſucceeding times; a degree of valour, better ſupported by the authentic proofs, exhibited in his trial, than by any narrative whatever.

The preſent age will be compleat judges of the action, and of the conduct of all the com-

commanders. Posterity, as the coolest and most impartial, will be the fittest judges of this prosecution. But British officers, of every rank, will reap those fruits of his intrepidity, which he could not receive, that of knowing their charge in the common forms, and not left to conjecture it only, from the nature of their punishment.

FINIS.